

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554**

In the Matter of	)	
	)	
	)	
Joint Petition for Expedited Rulemaking to	)	CI Docket No. 02-22
Establish Minimum Notice Requirements	)	
For Recently Detariffed Services	)	
	)	

**Comments of the  
ALABAMA PUBLIC SERVICE COMMISSION**

The Alabama Public Service Commission (APSC) submits these comments in response to the Public Notice (DA 02-271) released on February 6, 2002. In the Notice the Federal Communications Commission (FCC or Commission) seeks comments on the Joint Petition for Expedited Rulemaking filed on October 29, 2001, by nine petitioners - AARP, Consumer Action, Consumer Federation of America, Consumers Union, the Massachusetts Union on Public Housing Tenants, the National Association of Regulatory Utility Commissioners, the National Association of Consumer Agency Administrators, the National Association of State Utility Consumer Advocates, and the National Consumers League. The petitioners submitted a request for an expedited proposed rulemaking (or further proposed rulemaking) to impose a minimum 30 days notice requirement on recently detariffed domestic toll services.

The APSC shares the Petitioners concerns that the current detariffing rules are not adequate to assure that consumers can make informed choices among competing suppliers of toll services. The APSC agrees with and supports the Petitioners' proposal that language requiring IXCs to give at least 30 days prior notice to presubscribed customers should be added to Section 42.10 of the FCC's rules.

The FCC theorized in its Second Report and Order<sup>1</sup> that after detariffing customers would be able to take advantage of remedies under state consumer protection laws and contract

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<sup>1</sup> *In the Matter of Policy and Rules Concerning the Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61 Second Report and Order, 11 FCC Rcd at 20730.*

law against abusive practices. This theory assumes that all states have strong consumer laws and most consumers are aware of contract law against abusive practices. This is not the case. Consumer laws vary widely among the states and contract law is not a realistic option to pursue for most individual consumer. It also appears from its orders that the FCC believed that advance written notice of significant changes in the contract would be made available to customers by their carriers after detariffing. The carriers, however, in response to the detariffing order provided agreements to their subscribers that reserve the unilateral right to the carrier to change its rates schedule or terms and conditions at any time with no advance notice. Use or payment for the service constitutes acceptance and consent to the agreement. Under the present agreements a consumer does not know for certain on any given day what the price of the service will actually be when they place a call through their interexchange provider.

The APSC agrees with the Petitioners that the nature of the service, coupled with the unilateral right reserved by the carrier to change rates at any time makes advanced written notice a fundamental necessity for consumers. Further, we agree with the Petitioners that in a competitive market system consumers must have adequate information to make informed decisions and should not be required to shop for basic consumer protections.

The APSC supports the petition for an expedited proposed rulemaking (or further proposed rulemaking) on requiring interexchange carriers to provide advanced notice to their subscribers of material changes to their rates, terms or conditions. Notice of these changes is in the public interest. The APSC also agrees with and supports the Petitioner's proposal that language requiring IXCs to give at a minimum 30 days written notice to presubscribed customers should be added to Section 42.10 of the FCC's rules.

Respectfully Submitted

BY: \_\_\_\_\_  
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DATED: March 11, 2002